

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ABDUL SHARIFF,

Plaintiff,

-against-

BEACH 90TH STREET REALTY CORP. and NEW
SUPER WOK CORP.,

Defendants.
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MEMORANDUM & ORDER

11-CV-2551 (ENV) (CLP)

VITALIANO, D.J.

Plaintiff, Abdul Shariff, commenced this action on May 26, 2011. Although plaintiff filed proof of service for defendant New Super Wok Corp. (“NSWC”) the service did not comport with the requisites of Federal Rule of Civil Procedure 4(h). On January 17, 2013, Magistrate Judge Lois Bloom issued an Order advising plaintiff of this defect in service and directing plaintiff to take appropriate action or the court would dismiss the case against defendant NSWC. Having received no response from plaintiff, Magistrate Judge Bloom issued a Report and Recommendation (the “R&R”) on March 13, 2013, recommending that plaintiff’s claims against defendant NSWC be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

In reviewing a report and recommendation of a magistrate judge, a district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Further, a district judge is required to “determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); see also Arista Records, LLC v. Doe 3, 604 F.3d 110, 116 (2d Cir. 2010). But, where no timely objection has been made, the “district court need only satisfy itself that there is no clear error on the face of the record” to accept a magistrate judge’s Report and Recommendation. Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp.

1186, 1189 (S.D.N.Y. 1985)).

Parties had until March 27, 2013 to file objections to this R&R. No objections have been filed. After careful review of the record, the Court finds the R&R to be correct, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R in its entirety as the opinion of the Court. All claims as to defendant NSWC are dismissed without prejudice.

SO ORDERED.

Dated: Brooklyn, New York
April 3, 2013

s/ENV

ERIC N. VITALIANO
United States District Judge